

Senate Amendment 5283

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1 1 Amend House File 2558, as passed by the House, as
1 2 follows:
1 3 #1. By striking everything after the enacting
1 4 clause and inserting the following:
1 5 <Sec. _____. NEW SECTION. 15.118 CONFIDENTIALITY
1 6 OF INFORMATION IN FINANCIAL ASSISTANCE APPLICATIONS.
1 7 1. The board and the department shall give due
1 8 regard to the confidentiality of certain information
1 9 disclosed by applicants for financial assistance
1 10 during the application process, the contract
1 11 administration process, and the period following
1 12 closeout of a contract in the manner described in this
1 13 section.
1 14 2. All information contained in an application for
1 15 financial assistance submitted to the department shall
1 16 remain confidential while the department is reviewing
1 17 the application, processing requests for
1 18 confidentiality, negotiating with the applicant, and
1 19 preparing the application for consideration by the
1 20 director or the board. After the department has
1 21 considered a request for confidentiality, any
1 22 information not deemed confidential shall be made
1 23 publicly available. Any information deemed
1 24 confidential by the department shall also be kept
1 25 confidential during and following administration of a
1 26 contract executed pursuant to a successful
1 27 application.
1 28 3. The department shall consider the written
1 29 request of an applicant or award recipient to keep
1 30 confidential certain details of an application, a
1 31 contract, or the materials submitted in support of an
1 32 application or a contract. If the request includes a
1 33 sufficient explanation as to why the public disclosure
1 34 of such details would give an unfair advantage to
1 35 competitors, the department shall keep certain details
1 36 confidential. If the department elects to keep
1 37 certain details confidential, the department shall
1 38 release only the nonconfidential details in response
1 39 to a request for records pursuant to chapter 22. If
1 40 confidential details are withheld from a request for
1 41 records pursuant to chapter 22, the department shall
1 42 release an explanation of why the information was
1 43 deemed confidential and a summary of the nature of the
1 44 information withheld and the reasons for withholding
1 45 it. In considering requests for confidential
1 46 treatment, the department shall narrowly construe the
1 47 provisions of this section in order to appropriately
1 48 balance an applicant's need for confidentiality
1 49 against the public's right to information about the
1 50 department's activities.
2 1 4. If a request for confidentiality is denied by
2 2 the department, an applicant may withdraw the
2 3 application and any supporting materials, and the
2 4 department shall not retain any copies of the
2 5 application or supporting materials. Upon notice that
2 6 an application has been withdrawn, the department
2 7 shall not release a copy in response to a request for
2 8 records pursuant to chapter 22.
2 9 5. The department shall adopt by rule a process
2 10 for considering requests to keep information
2 11 confidential pursuant to this section. The department
2 12 may adopt emergency rules pursuant to chapter 17A to
2 13 implement this section. The rules shall include
2 14 criteria for guiding the department's decisions about
2 15 the confidential treatment of applicant information.
2 16 The criteria may include but are not limited to the
2 17 following:
2 18 a. The nature and extent of competition in the
2 19 applicant's industry sector.
2 20 b. The likelihood of adverse financial impact to
2 21 the applicant if the information were to be released.
2 22 c. The risk that the applicant will locate in
2 23 another state if the request is denied.
2 24 d. Any other factor the board reasonably considers

2 25 relevant.>
2 26 [#2.](#) By renumbering as necessary.
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2 29 _____
2 30 RICH OLIVE
2 31 HF 2558.202 82
2 32 tw/nh/11463